

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arlyn Rodriguez	Team: Team # 3	CCRB Case #: 201210968	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/18/2012 7:00 PM	Location of Incident: East 56th Street and Church Avenue	Precinct: 67	18 Mo. SOL 2/18/2014	EO SOL 2/18/2014	
Date/Time CV Reported	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/23/2012 3:41 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Sher	07435	951244	PBBS

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Sher	Discourtesy: PO Michael Sher spoke rudely to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On August 18, 2012, § 87(2)(b) filed this complaint via telephone with IAB, generating IAB Log Number 12-43979 (encl. B1). The complaint was forwarded to the CCRB on August 23, 2012 (encl. B2). On August 18, 2012, at approximately 7:00 p.m., PO Michael Sher pulled over § 87(2)(b)'s vehicle on East 56th Street and Church Avenue in Brooklyn. The following allegation resulted from PO Sher's actions:

- **Allegation A – Discourtesy: PO Michael Sher spoke rudely to** § 87(2)(b)

§ 87(2)(g)

On August 28, 2012 and September 26, 2012 mediation was presented to § 87(2)(b) and rejected.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

§ 87(2)(b) provided a phone statement to the CCRB on August 28, 2012 (encl. C1). He was interviewed at the CCRB on September 26, 2012 (encl. C2 – C5). § 87(2)(g) The statement is summarized below.

On August 18, 2012, at approximately 7:00 p.m., § 87(2)(b) was driving his vehicle northbound along Kings Highway in Brooklyn. § 87(2)(b) had his mobile phone open in his vehicle and was having a phone conversation on speakerphone, as he had received a call from his two children. Suddenly, PO Michael Sher of Patrol Borough Brooklyn South, who was traveling on foot, approached § 87(2)(b) and allegedly told him, "What are you fucking doing? What the fuck are you doing on the phone? Shut up and hang up the phone." Consequently, § 87(2)(b) told PO Sher that he was behaving unprofessionally.

As a result, PO Sher ordered § 87(2)(b) to pull his vehicle over and told him that he would issue him a summons if he did not do so. Thus, § 87(2)(b) double parked his vehicle in the vicinity of East 56th Street and Church Avenue, in front of 5606 Church Avenue. PO Sher approached § 87(2)(b) and requested his license and registration, which § 87(2)(b) provided. Meanwhile, § 87(2)(b) called 311 and began filing a complaint against PO Sher, as PO Sher acted unprofessionally toward him. At this point in time, an unidentified officer approached PO Sher. Shortly thereafter, PO Sher handed § 87(2)(b) Summons § 87(2)(b) (encl. D1) for § 87(2)(b).

NYPD Statements:

Subject Officer: PO MICHAEL SHER

- PO Sher is a § 87(2)(b)-old white male who is 5'8" tall, weighs 175 pounds and has black hair and blue eyes.
- On August 18, 2012, PO Sher was assigned to Patrol Borough Brooklyn South's SPIKE gun reduction unit. He worked on foot, without a partner, in uniform from 3:00 p.m. to 11:35 p.m.

Memo Book

PO Sher's memo book (encl. D2 – D7) states that, at 6:00 p.m., he conducted a car stop on the westbound intersection of Church Avenue and East 56th Street. PO Sher stopped the driver for using his cell phone (on speakerphone). He noted the defendant's pedigree information:

§ 87(2)(b) DOB: § 87(2)(b), License # § 87(2)(b) Black Ford Lincoln with § 87(2)(b). At 7:10 p.m., PO Sher issued § 87(2)(b) a summons for § 87(2)(b) usage (§ 87(2)(b)).

CCRB Testimony

PO Michael Sher was interviewed at the CCRB on October 22, 2012 (encl. D8 – D9). On August 18, 2012, at approximately 7:00 p.m., on Church Avenue, between East 56th Street and East 57th Street, in Brooklyn, from a distance of approximately five feet, PO Sher observed a vehicle with five occupants drive past. Initially, PO Sher believed the vehicle was a “dollar cab” which was operating without proper authorization. Additionally, through the vehicle's windshield, PO Sher observed the driver, § 87(2)(b) with his phone in his hand. The phone was positioned in front of § 87(2)(b)'s face and he was operating it via speakerphone.

Since traffic was slow, PO Sher approached the driver from behind, and pulled his vehicle over. As PO Sher approached him, § 87(2)(b) put down his phone. Shortly thereafter, PO Sher introduced himself to § 87(2)(b) as a police officer and explained that § 87(2)(b) was stopped because he was speaking on the phone without a hands-free device while operating a vehicle. PO Sher asked § 87(2)(b) why he was on the phone. § 87(2)(b) told PO Sher that he was on speakerphone with his daughter and was using the cell phone for an emergency, as he was on his way to pick up his daughter. PO Sher informed § 87(2)(b) that he could not hold his phone inside his vehicle while it is in motion.

Subsequently, PO Sher requested § 87(2)(b)'s license and registration, which were provided. A few moments later, PO Sher issued § 87(2)(b) Summons § 87(2)(b) (encl. D1). Suddenly, the four occupants exited the vehicle, as § 87(2)(b) returned money to them, which PO Sher believed was a refund of the cab fare. Shortly thereafter, § 87(2)(b) informed PO Sher would call the CCRB to file a complaint against him. In response, PO Sher stated, “You could do that” and walked away.

PO Sher indicated that the entire incident lasted approximately five to ten minutes. PO Sher stated that he did not use profanity against § 87(2)(b) during the incident. Furthermore, PO Sher indicated that, during the incident, he did not tell § 87(2)(b) “What the fuck are you doing? What the fuck are you doing on the phone? Shut up and hang up the phone.” PO Sher stated that no other officers were present during his interaction with § 87(2)(b).

Summons for Incident and Disposition

- On October 26, 2012, a Freedom of Information Law request was mailed to the New York State Department of Motor Vehicles requesting the disposition of Summons § 87(2)(b) (encl. D1). A copy of the summons disposition was delivered on December 14, 2012 (encl. H – H2) and reveals that § 87(2)(b) was found guilty of operating a cell phone while his vehicle was in motion.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of October 26, 2012 with regard to the incident (encl. G5).

Civilian Criminal History

